

## CHAPTER 266

---

**COURTS**


---

**HOUSE BILL 05-1013**

BY REPRESENTATIVE(S) Cloer, Borodkin, Boyd, Carroll M., Coleman, Frangas, Garcia, Green, Jahn, McFadyen, Merrifield, Solano, Stafford, Sullivan, Todd, and Vigil;  
also SENATOR(S) Tapia, Fitz-Gerald, Groff, Grossman, Hanna, Tochtrop, and Tupa.

**AN ACT**

**CONCERNING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS FOR PERSONS APPOINTED BY THE COURT TO REPRESENT CERTAIN VULNERABLE PERSONS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 15-14-110, Colorado Revised Statutes, is amended to read:

**15-14-110. Letters of office.** (1) A NOMINEE FOR GUARDIAN, EMERGENCY GUARDIAN, CONSERVATOR, OR SPECIAL CONSERVATOR SHALL FILE AN ACCEPTANCE OF OFFICE WITH THE COURT. THE ACCEPTANCE OF OFFICE SHALL BE SIGNED BY THE NOMINEE AND, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, SHALL INCLUDE A STATEMENT BY THE NOMINEE INFORMING THE COURT OF THE FOLLOWING:

(a) WHETHER THE NOMINEE HAS BEEN CONVICTED OF, PLED NOLO CONTENDERE TO, OR RECEIVED A DEFERRED SENTENCE FOR A FELONY OR MISDEMEANOR, AND, IF SO, THE NAME OF THE STATE AND COURT ISSUING THE ORDER;

(b) WHETHER A TEMPORARY CIVIL PROTECTION OR RESTRAINING ORDER OR A PERMANENT CIVIL PROTECTION OR RESTRAINING ORDER HAS BEEN ISSUED AGAINST THE NOMINEE IN THE STATE OF COLORADO OR ANOTHER STATE AT ANY TIME;

(c) WHETHER A CIVIL JUDGMENT HAS BEEN ENTERED AGAINST THE NOMINEE, AND, IF SO, THE NAME OF THE STATE AND COURT GRANTING THE JUDGMENT; AND

(d) WHETHER THE NOMINEE HAS BEEN RELIEVED OF ANY COURT-APPOINTED RESPONSIBILITIES, AND, IF SO, THE NAME OF THE COURT RELIEVING THE NOMINEE.

(2) (a) IN SUPPORT OF THE STATEMENT SET FORTH IN THE ACCEPTANCE OF OFFICE

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE NOMINEE FOR GUARDIAN, CONSERVATOR, EMERGENCY GUARDIAN, OR SPECIAL CONSERVATOR SHALL:

(I) OBTAIN AND ATTACH TO THE ACCEPTANCE OF OFFICE A NAME-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION. THE NOMINEE SHALL BE RESPONSIBLE FOR THE COST OF THE NAME-BASED CRIMINAL HISTORY RECORD CHECKS.

(II) OBTAIN AND ATTACH TO THE ACCEPTANCE OF OFFICE A CURRENT CREDIT REPORT OF THE NOMINEE PAID FOR BY THE NOMINEE; AND

(III) VERIFY THE ACCEPTANCE OF OFFICE UNDER PENALTY OF PERJURY, STATING THAT, TO THE BEST OF HIS OR HER KNOWLEDGE OR BELIEF, THE STATEMENTS IN THE ACCEPTANCE OF OFFICE AND ATTACHED DOCUMENTATION ARE ACCURATE AND COMPLETE.

(b) THE COURT MAY, IN ITS DISCRETION, WAIVE ANY OR ALL OF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (2) FOR GOOD CAUSE SHOWN WHEN MAKING AN EMERGENCY APPOINTMENT OF A GUARDIAN PURSUANT TO SECTION 15-14-204 OR 15-14-312, OR WHEN MAKING AN APPOINTMENT OF A SPECIAL CONSERVATOR PURSUANT TO SECTIONS 15-14-405, 15-14-406, AND 15-14-412.

(3) ~~Upon the guardian's filing of an acceptance of office,~~ AFTER A HEARING, the court shall issue appropriate letters of guardianship ~~Upon the conservator's filing of an acceptance of office~~ OR EMERGENCY GUARDIANSHIP IF IT FINDS, UPON REVIEW OF THE ACCEPTANCE OF OFFICE, THAT THE NOMINEE IS APPROPRIATE FOR THE OFFICE. LETTERS OF GUARDIANSHIP SHALL INDICATE WHETHER THE GUARDIAN WAS APPOINTED BY THE COURT OR A PARENT. ~~AFTER A HEARING and THE FILING OF any required bond, the court shall issue appropriate letters of conservatorship~~ ~~Letters of guardianship must indicate whether the guardian was appointed by the court or a parent.~~ OR SPECIAL CONSERVATORSHIP IF IT FINDS, UPON REVIEW OF THE ACCEPTANCE OF OFFICE, THAT THE NOMINEE IS APPROPRIATE FOR THE OFFICE. Any limitation on the powers of a guardian, EMERGENCY GUARDIAN, ~~or~~ conservator, OR SPECIAL CONSERVATOR or of the assets subject to a conservatorship ~~must~~ SHALL be endorsed on the guardian's or conservator's letters.

(4) THE SPECIFICATIONS REQUIRED PURSUANT TO PARAGRAPHS (a) TO (d) OF SUBSECTION (1) OF THIS SECTION AND THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION SHALL NOT APPLY TO THE FOLLOWING NOMINEES:

(a) A PUBLIC ADMINISTRATOR NOMINATED AS A GUARDIAN OR CONSERVATOR;

(b) A TRUST COMPANY NOMINATED AS A GUARDIAN OR CONSERVATOR;

(c) A BANK NOMINATED AS A GUARDIAN OR CONSERVATOR;

(d) A CREDIT UNION, SAVINGS AND LOAN, OR OTHER FINANCIAL INSTITUTION NOMINATED AS A GUARDIAN OR CONSERVATOR PURSUANT TO STATE LAW;

(e) A STATE OR COUNTY AGENCY NOMINATED AS A GUARDIAN OR CONSERVATOR PURSUANT TO STATE LAW;

(f) A PARENT RESIDING WITH HIS OR HER CHILD WHO IS NOMINATED AS A GUARDIAN OR CONSERVATOR OF HIS OR HER CHILD; AND

(g) ANY OTHER PERSON OR ENTITY FOR WHOM THE COURT, FOR GOOD CAUSE SHOWN, DETERMINES THAT THE REQUIREMENTS SHALL NOT APPLY.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE COURT FROM REQUIRING A NOMINEE TO OBTAIN ADDITIONAL BACKGROUND INFORMATION AS THE COURT DEEMS NECESSARY TO ASSIST THE COURT IN DETERMINING THE FITNESS OF THE NOMINEE FOR THE APPOINTMENT SOUGHT BY THE NOMINEE, INCLUDING REQUIRING A NOMINEE TO OBTAIN FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS THROUGH THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. IF THE COURT REQUIRES A NOMINEE TO SUBMIT FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS, THE NOMINEE SHALL BE RESPONSIBLE FOR PROVIDING A COMPLETE SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION AND FOR OBTAINING THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS AND PRESENTING THEM WITH THE ACCEPTANCE OF OFFICE. THE NOMINEE SHALL ALSO BE RESPONSIBLE FOR THE COST OF THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS.

**SECTION 2. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for allocation to the Colorado bureau of investigation, Colorado crime information center (CCIC), identification, for the fiscal year beginning July 1, 2005, the sum of eight thousand seven hundred twenty-seven dollars (\$8,727), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be cash funds from fingerprint and name check processing fees collected by the department of public safety.

(2) It is the intent of the general assembly that the cash funds appropriation in subsection (1) of this section shall be derived from savings generated from the implementation of the provisions of House Bill 05-1264, as enacted during the first regular session of the sixty-fifth general assembly.

**SECTION 3. Effective date.** (1) This act shall only take effect if:

(a) House Bill 05-1264 is enacted at the first regular session of the sixty-fifth general assembly and becomes law; and

(b) The estimated decrease in state cash fund revenues resulting from House Bill 05-1264, for the state fiscal year 2005-06, as reflected in the final fiscal impact statement prepared on House Bill 05-1264 by the legislative council staff, is equal to or greater than the estimated increase in state cash fund revenues resulting from this act, if it takes effect, for the state fiscal year 2005-06, as reflected in the final fiscal impact statement prepared on this act by the legislative council staff; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2005, that the requirement set forth in paragraph (b) of this subsection (1) has been met.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 2005